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DICKSTEIN SHAPIRO LLP			BAIRD, EDWARD J	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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maierp@dicksteinshapiro.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/532,968	<b>Applicant(s)</b> SCHOEN ET AL.
	<b>Examiner</b> Ed Baird	<b>Art Unit</b> 3695

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 25 March 2010.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-43 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-43 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

#### **DETAILED ACTION**

1. Applicant's election of Group I, claims 1-43, without traverse in the reply filed on 25 March 2010 is acknowledged. Claim 44 has been withdrawn and therefore canceled.

#### ***Status of Claims***

2. Applicant has amended **claim 31** as filed on 14 December 2009 and **claim 44**, now canceled, as filed on 07 January 2010. Thus, claims 1-43 remain pending in this application.

#### ***Response to Arguments***

3. Applicant's arguments and amendments filed on **14 December 2009** regarding **claims 1-43** have been fully considered. Applicant's remarks filed on **07 January 2010** are moot in that they are directed to claim 44, which is now canceled.

4. Applicant's arguments regarding objection to the Abstract [Remarks filed 25 March 2010] are persuasive. In turn, Examiner withdraws objection.

5. Examiner acknowledges amendments to **claim 31** [Remarks filed 14 December 2009, hereafter referred to as Remarks 1] to overcome 35 U.S.C. § 112, 2<sup>nd</sup> paragraph rejection and, in turn, withdraws rejection.

6. Applicant's arguments filed with respect to **claims 1-43** [Remarks 1] regarding the 35 U.S.C. § 103(a) rejections have been fully considered but they are not persuasive.

7. Applicant argues **Silverman** does not teach *assigning credit for the duration of an auction, with the unused credit being returned afterwards, particularly as Silverman is not an auction system and has no concept of such a feature* [Remarks 1 page 12, 3<sup>rd</sup> paragraph]. However, Examiner respectfully disagrees.

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8. First, Examiner notes that there is not limitation in independent claims 1, 14, 23 or 32 which claims "*assigning credit for the duration of an auction, with the unused credit being returned afterwards*" as such. Applicant does claim "one or more computers of the system *notifying the participants of credit allocated to the auction but not used in matched orders*".

9. Second, **Silverman** discloses:

In addition to the above, there is a credit alert threshold. Preferably the permission to modify credit limits in the system of the present invention is only given to somebody having that special privilege. Preferably, if in the course of trading your credit remaining goes to a value less than 25% of the original value of the credit limit, an alert is sent out to anybody with permission to modify the limit. Thus, the credit limit alert informs a particular keystation 24 that it is trading dangerously low to the assigned credit limits it has given and that those limits are going to start blocking or inhibiting trades if nothing is done about changing them. [column 19 lines 32-44].

Clearly **Silverman** maintains track of available credit as credit is used during the course of trading. Accordingly **Silverman** "trading party" is aware of remaining credit allowed for trading.

10. Regarding Applicant's statement that **Silverman** *is not an auction system*, **Silverman** discloses a matching system for trading instruments with real time prices and with real time credit controls [column 3 lines 18-27] and, as such, is an auction system. In addition, **Silverman** discloses establishing market prices in an auction market for fungible goods in his background information [column 1 lines 59-62] as well as auction markets specifically [column 15 lines 56-66] as applicable to his system.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 1 – 8, 14 – 21, 23 – 29, and 32 – 38 are rejected under 35 U.S.C. 103(a)

as being unpatentable over **Buist et al** (US Pub. No. 2002/0035534) in view of

**Silverman et al** (US Patent No. 5,136,501)

13. Regarding **claims 1, 14, 23 and 32**, **Buist** discloses a system and method for conducting an on-line auction of securities [0009]. He discloses receiving orders and maintaining order books over a computer network [0024 and claim 2]. **Buist** teaches:

- one or more computers of the system notifying potential participants of an auction time [see at least 0011, 0052, 0061, and Figure 2];
- one or more computers of the system receiving from participants orders related to the auction [see at least 0053 – 0056 and Figure 2];
- one or more computers of the system conducting the auction at the time notified to the participants by matching the orders received [see at least 0053 and 0057];
- notifying the owners of matched orders [see at least 0012 and 0047].

Examiner note that *allocating units of a security* is indicative of Applicant's **notification of matched orders**:

**Buist** does not explicitly disclose:

- one or more computers of the system receiving from participants **credit limits** for execution of orders input by the participants with other participants;

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- one or more computers of the system notifying the participants of credit allocated to the auction but not used in matched orders.

However, **Silverman** teaches *matching systems for effectuating trades of trading instruments . . . in which buyers and sellers. . . trade with one another based on specified criteria, such as price, quantity and credit*, [column 1 lines 17 – 26]. He discloses a trading system which consists of a host computer, a transaction originating keystation for providing a bid on a given trading instrument to the system for providing the potential matching transaction, a counterparty keystation for providing an offer on the given trading instrument involved in the potential matching transaction, and a network for interconnecting the host computer, the transaction originating keystation, and the counterparty keystation for enabling data communications between each other [column 3 lines 39 – 52].

**Silverman** teaches a *messaging* in the system [see at least column 14 line 42 – column 16 line 23, and Figure 6]. Further, **Silverman** discloses a *credit control function* of the system [column 18 line 10 – column 19 line 68]. He discloses assigning credit limits by individual keystations or client sites [column 18 lines 23 – 35]. He discloses a *credit alert threshold* which, when the remaining credit goes to a particular value (here, 25% of the original value of the credit limit), an alert is sent out to anybody with permission to modify the limit [column 19 lines 33 – 57]. Examiner notes that *alerting participants of remaining credit* in trading processes is indicative of Applicant's **notifying the participants of credit not used in matched orders**.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the instant invention to modify **Buist's** disclosure to include *alerting participants of remaining credit* as taught by **Silverman** because it informs a particular keystation (i.e. client site) that it is trading dangerously low to the assigned credit limits it

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has given, and that those limits are going to start blocking or inhibiting trades if nothing is done about changing them [**Silverman** column 19 lines 40 – 44].

14. Regarding **claims 2 and 15**, **Silverman** teaches orders which are matched on the basis of credit and price [see at least column 7 lines 13 – 15].

15. Regarding **claim 3 an 33**, **Buist** teaches orders receiving less than a predetermined time before the auction as not being accepted [see at least 0012].

16. Regarding **claim 4 and 34**, **Silverman** teaches credit limit allocations received less than a predetermined time before the auction are not accepted by the system [see at least column 3 lines 18 – 27 and column 19 lines 36 – 44]].

17. Regarding **claim 5, 6, 20, 21, 28, 29, 35 and 36**, **Silverman** teaches participants being notified of unused credit *immediately or within one minute* after the auction is completed [see at least column 19 lines 33 – 68]. Examiner notes that *real time credit* is indicative of Applicant's **immediately or within one minute** after auction completion.

18. Regarding **claims 7, 16, 25 and 37**, **Buist** teaches notifying participants of one or more instruments to be auctioned and the minimum order amount [0052]. Examiner notes that *minimum prices* are indicative of Applicant's **minimum order amount**. Also, **Buist** discloses the *market manager* [see at least 0018 – 0022] and *market administrator* [see at least 0018 – 0027] which have analogous functions of Applicant's **system administrator** (claim 16), and **auction administrator** (claim 25).

19. Regarding **claims 8, 17, 26 and 38**, **Silverman** teaches automatically renewing a participants credit limits for future auctions on request from that participant [see at least column 3 line 60 – column 4 line 5]. Examiner notes that *resetting trading credit party limits* as inclusive of Applicant's **automatically renewing a participants credit limits**.

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20. Regarding **claims 18 and 24**, **Silverman** teaches notification of matched order messages being sent to a participant deal feed client via a deal feed server [see at least column 8 lines 31 – 58, and Figure 2]. Examiner interprets *ticker* as analogous to Applicant's **deal feed server**.

21. Regarding **claims 19 and 27**, **Silverman** teaches submitting **limit orders** [column 20 lines 58 – 67].

22. Claims 9 – 13 and 39 – 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Buist** in view of **Silverman** in further view of **Wilton et al** (US Patent No. 6,519,574).

23. Regarding **claim 9 – 11 and 39 – 41**, neither **Buist** nor **Silverman** explicitly discloses:

- receiving from participants credit limits for use in matching orders between other participants lacking bilateral credit.
- receiving from participants an identification of other participants whose credit limits may be used to match orders entered by the participants.
- matching orders received from participants who do not have bilateral credit, using the credit of an intermediary having bilateral credit with the participants submitting the matched order.

However, **Wilton** teaches *an electronic trading system which automatically identifies arbitrage opportunities arising from price anomalies that arise due to credit discrepancies within a market* [column 2 lines 45 - 49]. He further discloses *an electronic trading system which is capable of performing an automatic, instantaneous name switch operation whereby a less credit-worthy trading entity uses the credit lines of a more credit-worthy trading entity to execute a desired transaction which would not be*

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*otherwise available to the less credit-worthy trading entity due to lack of bilateral credit availability [column 2 lines 57 – 64].* He discloses *credit entities* which may extend individual credit limits to different branches of a financial institution [column 5 lines 13 – 29]. Examiner interprets such *credit entities* as analogous to Applicant's **intermediary having bilateral credit** with the participants submitting the matched order.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the instant invention to modify **Silverman's** disclosure to include *using credit entities to provide credit to participants lacking bilateral credit* as taught by **Wilton** because they allow less credit-worthy trading entities to use the credit lines of more credit-worthy trading entities to execute desired transactions [**Wilton** column 2 lines 57-64].

24. **Claims 12 and 13** are substantially similar to claim 11, the claim upon which they depend and are thus, rejected for the same reasons.

25. **Claims 42 and 43** are product claims parallel to method claims 12 and 13, respectively, and are thus, rejected for the same reasons.

26. Claim 22 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Buist** in view of **Silverman** in further view of **Keith** (US Pub. No. 2002/0091617).

27. Regarding **claims 22 and 30**, neither **Buist** nor **Silverman** explicitly discloses receiving messages at the computerized trading system notifying the system of credit limits for use in providing bilateral credit for trades between third parties where no bilateral credit exists between the third parties.

However, **Keith** discloses general purpose computer or network of computers programmed in accordance with his trading processes and functions as a platform for allowing electronic liquidity finder (ELF) programs and **umpire programs** to interact

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[0041]. He further describes an order umpire program which is coupled to exchange through mirror ELF program that serves to pass messages between exchange and umpire. Order umpire program is also connected to external point for reporting trades as appropriate, to an external point not coupled via a mirror ELF [0051]. He further discloses service umpires which may perform credit checking, certification and/or clearing [0154]. Examiner interprets umpires, *service umpires* in particular, as analogous to Applicant's **third party** for tracking credit limits and providing bilateral credit between third parties. Also, message transmission between parties is inherent in **Keith's** process.

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the instant invention to modify **Silverman's** disclosure to *use umpires in notification of credit limits for use in providing bilateral credit for trades between third parties* as taught by **Keith** because umpires can aggregate and analyze data from a variety of sources and continuously produce the results of such analysis for a user [Keith 0152].

28. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Buist** in view of **Silverman** in further view of **Keith** in further view of **Wilton**.

29. Regarding **claim 31**, neither **Buist**, **Silverman** nor **Keith** explicitly discloses:

- the prime broker credit limit store stores credit limits from a plurality of participants and the matching engine matches orders between participants using credit from a chain of two or more prime brokers, a first of said having bilateral credit with the participant submitting one side of the matched order and a second of said chain having bilateral credit with the participant submitting the other side of the matched order.

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However, **Wilton** teaches *credit entities which extend individual credit limits to each branch of a financial institution* [column 5 lines 13 – 29]. Here, Examiner interprets such *credit entities* as analogous to Applicant's **prime broker** and *individual credit limits* as being indicative of Applicant's **participants**. Examiner notes that while **Wilton** does not disclose a chain of *two* (emphasis added) or more brokers, it would have been obvious to do so.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the instant invention to modify **Silverman's** disclosure to include *using credit entities to provide credit to participants lacking bilateral credit* as taught by **Wilton** because they allow less credit-worthy trading entities to use the credit lines of more credit-worthy trading entities to execute desired transactions [**Wilton** column 2 lines 57 – 64].

Thus, this claim is rejected for the same reasons as claims 9 –11 and 39 – 41.

### ***Conclusion***

30. The prior art of record and not relied upon is considered pertinent to Applicant's disclosure:

- **Glodjo et al:** "Global electronic trading system", (US Pub. 2002/0091624).

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ed Baird whose telephone number is (571)270-3330. The examiner can normally be reached on Monday - Thursday 7:30 am - 5:00 pm Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles R. Kyle can be reached on 571-272-6746. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ed Baird/  
Examiner, Art Unit 3695

/Narayanswamy Subramanian/  
Primary Examiner, Art Unit 3695

